

**AGENDA**  
**ARKANSAS LOTTERY COMMISSION**  
**Wednesday, September 8, 2010**  
**1:30 p.m.**  
**124 West Capitol, Third Floor**  
**Little Rock, Arkansas**

- I. Call to Order
- II. Approval of minutes of August 19, 2010 (tentative)
- III. Office of Personnel Management Report Review
- IV. Report from Standing Committees
- V. Other Business
- VI. Executive Session

**Adjourn**

MINUTES  
ARKANSAS LOTTERY COMMISSION  
Thursday, August 19, 2010  
2:45 p.m.  
Wyndham Riverfront Hotel  
2 Riverfront Place  
North Little Rock, Arkansas

The meeting was called to order by ALC Chair Dianne Lamberth. Commissioners Smith, Pickard, Campbell, Malone, Shipp, Ward-Jones and White were present. Director Ernie Passailaigue represented the staff, along with David Barden, Ernestine Middleton, Julie Baldridge, Bishop Woosley, Lance Huey, Remmele Mazyck, Joanna Bunten and Patricia Vick. Internal Auditor Michael Hyde and Auditor Whitnie Hall also were present.

The minutes from the meeting of July 7, 2010, were reviewed by motion of Commissioner White, second by Commissioner Ward-Jones, and unanimously approved.

Prior to the Commission meeting, the Commission held a 90-minute oral hearing pursuant to the Administrative Procedure Act for the purpose of hearing comments from the public concerning the proposed amendments to the ALC Operational Rules, regarding Ticket Vending Machines (TVMs). Twenty-three individuals made comments, as recorded in a list attached to these Minutes. Ivan Hudson and Bob Coleman

Commissioner Lamberth recognized Jerry Cox, director of the Arkansas Family Council, to make additional remarks regarding the TVMs, and he discussed his position. A letter to the Commission from Mr. Cox was received and is attached to these Minutes.

The Chair opened a discussion of the changes to the Operational Rules, considering both the oral comments offered during the hearing and written comments received by the Commission during the public comment period from July 15, 2010 until August 13, 2010. She recognized Commissioner Smith, Chair of the Legal Committee, who presented a summary of the substantive changes. Director Passailaigue was asked about TVM use in other states. He responded that, if the rule changes are approved, Arkansas would become one of 37 American lotteries with TVMs. He said no more than 5 states, probably fewer, had the age verification capability that the Arkansas TVMs would have. Commissioner Shipp questioned the wording in the proposed amendments regarding "continued lottery play" in Section 1.35(d). Director Passailaigue noted that additional machines could not be acquired without action by the Commission. The Commission also discussed the following: (1) the definition of age validation in Section 7.1(b), (2) the requirement in Section 7.2(c) that the TVM would be in a work area "normally" staffed, and (3) the general question of sufficient specificity to encompass differently equipped machines that might be acquired in the future. Commissioner Malone addressed the need for the machines to be in a location that is staffed at all times. A brief discussion ensued regarding a study of the demographics and habits of the player base, and the Director verified that would be contracted out, as part of the current budget, after the end of the first 12 months of lottery sales. Commissioners Smith and Shipp discussed the possibility of immediate adoption of the proposed amendments, with additional changes brought forth at an upcoming meeting.

Commissioner Pickard commented on the need for thorough training of retailers with the TVMs, including intensive training regarding monitoring for age verification. Director Passailaigue commented on the excellence of the Arkansas business community and the retailer base on which the ASL relies. By motion of Commissioner Smith, seconded by Commissioner Pickard, the language was revised to specify "a government-issued form of identification" in Section 7.1(b) and to remove the word "normally" from the proposed "normally staffed" language in Section 7.2(c), and the motion passed unanimously. By motion of Commissioner Smith and second by Commissioner White, the proposed rules, as amended, were adopted and directed to be forwarded to the Legislative Oversight Committee.

Director Passailaigue then presented his report, focusing on FY2011, prize percentage as is related to unclaimed prizes and to net proceeds. Vice President Barden next introduced Advertising and Marketing Director Bunten for a presentation on the marketing of the ASL: three promotional events weekly; two summer motorcycle events; and direction to the website to learn of other promotional events. There currently are 49 games in play.

Internal Auditor Hyde reported the completion of 16 audits, with three substantially complete.

Commissioner Pickard reported that the Higher Education Committee had met and elected him chairman. He also asked that Dr. Purcell and Ms. Tara Smith be thanked for their efforts regarding the scholarships. He also praised the financial aid professionals at colleges and universities around the state for their performance of the additional workload imposed by the lottery scholarships. Commissioner Malone spoke about the current week, with students beginning or returning to college, and said it had been a proud week for him. Commissioner Campbell reported that he had a name to recommend for the vacancy on the Retailer Advisory Board and directed Ms. Baldrige to convey the information to the Chair. An Audit Committee meeting following adjournment was confirmed by Commissioner Malone.

Vice President Middleton introduced Valerie Basham, the new ALC Human Resources Director, to the Commission, stating that Ms. Basham comes from Adesa and has more than 15 years of HR experience.

The Commission discussed the date for the next meeting and agreed to meet at 1:30 p.m. on September 30.

The meeting was adjourned.



STATE OF ARKANSAS  
**Department of Finance  
and Administration**

**OFFICE OF PERSONNEL MANAGEMENT**  
**Administrator's Office**  
1509 West Seventh Street, Suite 201  
Post Office Box 3278  
Little Rock, Arkansas 72203-3278  
Phone: (501) 682-1753  
FAX: (501) 682-5104

August 12, 2010

Ernie Passallaigue, Director  
Arkansas Scholarship Lottery Commission  
P. O. Box 3238  
Little Rock, AR 72203

Dear Mr. Passallaigue:

The Office of Personnel Management has completed its review of your policies as per your request.

As a general comment, Arkansas Lottery Commission policies seem to be consistent with most state government policies. The attached spread sheet delineates the differences between state policies and Arkansas Lottery Commission policies.

However, it must be pointed out that overall, ALC is silent on many issues where other state agencies have definitive processes.

The first example of this would be the lack of a grievance process for Arkansas Lottery Commission employees. Although the ALC has established a "Communication of Employee Concerns" policy that encourages two way communication, most state agencies have a formal process that establishes a procedure for complaints. The process itself can eliminate the appearance subjective actions by agency management.

Another major difference between the Arkansas Lottery Commission and most state agencies is in the compensation area. Specific guidelines and procedures are established by Act 688 of 2009 that address hiring rates, salary increases, labor market adjustments, etc. This ensures that employees are treated consistently across state agencies and that employees have a full understanding of the salary administration process. As it stands, the Arkansas Lottery Commission compensation processes are strictly at the discretion of the director.

Ernie Passalunghi

August 12, 2010

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As previously discussed with Lottery Commission representatives, the awarding of compensatory time to exempt employees directly deviates from the practice of state government. It is generally assumed that if an employee is exempt, then their salary compensates them for extra hours of work that may be required of those employees. I do have a concern that awarding compensatory time to these employees could negate their exempt status thus, creating a liability for the Arkansas Lottery Commission.

Andrew Bass, former Legislative Personnel Administrator completed a review of job classifications and grades that was previously discussed with ALC employees. I have attached a copy of this study for your review.

If you have any further questions, please feel free to contact me at 682-5077.

Sincerely,



Kay B. Terry  
State Personnel Administrator

KBT/abc:1-2

Attachment

# OPM Review of ALC Policies

## Section 2: GENERAL INFORMATION

Communication of Employee Concerns

Most state agencies have a defined process for the resolution of grievances. The Lottery Commission policy does not reflect this process nor does it define which employee classifications could utilize the grievance process. Attached you will find the DFA procedure on pages 25-31. This is a typical process for most state positions and allows an administrative alternative to a judicial hearing.

## Section 3: BUSINESS POLICIES

Hours of Work

Normal business hours for State Employees are from 8:00 to 4:30 inclusive of a 30 minute lunch. ALC has established 8:30 as the start time for all ALC employees. There is no mention of flex time or alternate working hours, which are common practices within State Agencies. Also, it is not State Policy to add the 2 fifteen minute breaks to the lunch break, which is a practice frowned upon by the US Dept. of Labor.

Employment of Relatives

Arkansas Code 25-16-1003 specifically addresses laws governing married state employees. However, the ALC policy goes much further by addressing employees who live together in a sexual relationship. It appears that the Director has total discretion on addressing the situation which can be based on the employee's job performance. This differs from the policies of most state agencies. If the Arkansas Lottery Commission is determined to have such a policy, it would appear that more definitive guidelines should be established.

## Section 4: EMPLOYMENT POLICIES

Employee Conduct

The ALC policies have a very long and sometimes vague list of employee conduct that could result in disciplinary action up to and including termination. Most state agencies have progressive discipline policies that set out guidelines for handling such infractions. Generally, employees will have received verbal or written warning prior to termination acts. This policy would appear to leave itself open to interpretation and misapplication. As written, this policy leaves all decisions at the discretion of the director with no systemic approach to discipline.

Employee Status (FLSA)

The ALC policy states that non-exempt employees will receive overtime payment for all overtime accrued. It has always been the position of the state of Arkansas that compensatory time was the preferred method of compensating for overtime. Overtime is generally not awarded until employees have accrued the 240 hour maximum or if employee terminates or transfers from one agency to another. It has also been the policy that exempt employees do not receive overtime or compensatory time. Exempt employees are not specifically addressed in the FLSA, but this practice could possibly result in exempt employees having their status changed to non-exempt.

## Section 5: EMPLOYEE COMPENSATION

The ALC has broad discretion in the compensation area where state agencies have a very defined process for determination of the starting rate of an employee as well as movement through the pay grade. This allows for consistent salary administration.

The ALC is not utilizing the career level of the career service pay plan. This would mean that employees who have over fifteen years of service at various state agencies are not allowed to maintain their previous salary level. Also, it would be preferable for ALC to establish a definitive career service date.

## Section 6: EMPLOYEE JOB PERFORMANCE

Merit Pay

This section refers to the career level of the pay plan although this level is not referenced in the compensation section.

## Section 8: EMPLOYMENT POLICIES

No Comments

## Section 9: WORKPLACE SAFETY

No Comments

## Section 10: EMPLOYMENT SEPARATION

No Comments

## Section 11: MISCELLANEOUS

No Comments

State Title Information		ASL Human Resource Manager	C130	\$60,810	\$76,819	\$96,212	1	PA in human resources, business administration, public administration, or related field, with 7 years experience in human resource management.	PHR/SPHR preferred, not required.
State Title Information		DHS Director of Human Resources	N904	\$73,116	\$82,256	\$91,395		The formal education equivalent of a bachelor's degree in human resources, public administration, organization development, or a related field, plus five years work experience in managing all aspects of human resource function including five years in a supervisory capacity.	
State Title Information		DFA Assistant Personnel Administrator	C130	\$60,810	\$76,819	\$96,212		The formal education equivalent of a bachelor's degree in personnel management, public administration, business administration, or a related area, plus seven years of experience in personnel/human resources management, including three years in a supervisory or leadership capacity. Must possess Certified Compensation Professional (CCP) designation.	
State Title Information		Human Resources Administrator	C126	\$50,029	\$65,324	\$83,742		The formal education equivalent of a bachelor's degree in human resources, public administration, or a related field, plus seven years of human resources experience, including three years supervisory experience.	
State Title Information		Agency Human Resources Manager	C123	\$43,217	\$57,806	\$75,812		The formal educational equivalent of a bachelor's degree in human resources, business administration, public administration, or a related field plus five years of human resources experience, including three years in supervisory capacity.	
State Title Information		Personnel Manager	C121	\$39,199	\$53,264	\$70,108		The formal education equivalent of a bachelor's degree in human resources, public administration, or a related field plus four years of human resources experience, including one year in a supervisory or leadership capacity.	
State Title Information		ASL Network Engineer	C130	\$60,810	\$76,819	\$96,212	1	Associate Degree or High School diploma. Prefer Bachelor's degree in Information Technology, Computer Science, or related field, and 5 - 18 years relevant work experience.	
State Title Information		State Database Administrator	C130	\$60,810	\$76,819	\$96,212		The formal education equivalent of a bachelor's degree in computer science or related field and two years of experience OR Completion of technical training in computer science, data processing, or a related field acquired from a vocational, military or industrial setting, plus 2 years of experience in database support.	
State Title Information		State Systems Administrator Lead	C129	\$67,914	\$73,776	\$82,956		The formal education equivalent of a bachelor's degree in computer science, mathematics, or a related field plus eight years of experience in computer support, plus three years of supervisory experience OR Completion of technical training in computer science, data processing, or a related field acquired from a vocational, military or industrial setting, plus six years experience in computer support, plus two years of supervisory experience.	
State Title Information		Information Systems Manager	C128	\$55,156	\$70,849	\$89,796		The formal education equivalent of a bachelor's degree in computer science, mathematics, or a related field plus eight years of experience in computer support, plus three years of supervisory experience OR Completion of technical training in computer science, data processing, or a related field acquired from a vocational, military or industrial setting, plus eight years experience in computer support, plus three years of supervisory experience.	
State Title Information		Data Warehouse Lead	C128	\$55,156	\$70,849	\$89,796		The formal education equivalent of a bachelor's degree in computer science, business administration, or a related area, plus five years of systems programming experience, including two years in a supervisory or leadership capacity.	

State Title Information	<p>The formal education equivalent of a bachelor's degree in computer science or related field; plus eight years of experience in network administration, plus two years supervisory experience. Cisco Certified Network Associate (CCNA) or Cisco Certified Design Associate (CCDA) within one year of employment. Cisco Certified Network Professional (CCNP), Cisco Certified Design Professional (CCDP) or Registered Professional Engineer (PE) within four years of employment. OR Completion of technical training in computer science, data processing, or a related field acquired from a vocational, military, or industrial setting; plus five years of experience in computer support, plus two years of supervisory experience. OR Completion of technical training in computer science, data processing, or a related field acquired from a vocational, military, or industrial setting; plus five years of experience in computer support, plus two years of supervisory experience. Cisco Certified Network Associate (CCNA) or Cisco Certified Design Associate (CCDA) within one year of employment. Cisco Certified Network Professional (CCNP), Cisco Certified Design Professional (CCDP) or Registered Professional Engineer (PE) within four years of employment.</p>				
State Network Support Lead	C128	\$55,156	\$70,849	\$89,796	

ASL Senior Data Base Administrator	C130	\$50,810	\$76,819	\$96,242	1
State Database Administrator Lead	N909	\$86,857	\$100,077	\$111,196	
State Database Administrator	C130	\$86,810	\$76,819	\$96,242	
Information Systems Manager	C128	\$55,156	\$70,849	\$89,796	
Database Administrator	C124	\$45,377	\$60,214	\$78,038	

ASL QA System Analyst	C128	\$55,156	\$70,849	\$89,796	2
Information Systems Manager	C128	\$55,156	\$70,849	\$89,796	
Senior Technology Analyst	C126	\$50,029	\$65,324	\$83,742	
State Systems Administrator	C126	\$50,029	\$65,324	\$83,742	
Institution Information Technology Coordinator	C125	\$47,646	\$62,719	\$80,847	

Systems Specialist	C124	\$45,377	\$60,214	\$78,038	The formal education equivalent of a bachelor's degree in computer science or related field; plus five years of experience in systems analysis or related area, including one year in a leadership capacity.	
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ASL IT Security Analyst	C128	\$55,156	\$70,849	\$89,796	1	Bachelor's degree with 5 years technical experience OR Associate degree with 7 years experience.
State IT Security Analyst	C128	\$55,156	\$70,849	\$89,796		The formal education equivalent of a bachelor's degree in computer science, mathematics, or related field with at least five years of experience in the field; OR Completion of technical training in computer science, data processing, or a related field acquired from a vocational, military or industrial setting; plus five years of experience in computer support.
DFA ERP System Manager	C127	\$52,530	\$68,052	\$86,725		The formal education equivalent of a bachelor's degree in business management, mathematics, computer science, information technology or related area; plus six years of progressively more responsible experience in business management, mathematics, computer science, information technology, or related area, including two years in a supervisory or leadership capacity.
Information Systems Security Specialist	C126	\$50,029	\$65,324	\$83,742		The formal education equivalent of a bachelor's degree in information technology, computer science or related field; plus four years of experience in applications development involving the design and implementation of major applications projects having diverse sub-systems and interfaces with other systems.
DFA ERP Group Lead	C125	\$47,846	\$62,719	\$80,847		The formal education equivalent of a bachelor's degree in mathematics, computer science, information technology, or related field; plus four years experience in mathematics, computer science, information technology, ERP or related area.

ASL Paralegal	C126	\$50,029	\$65,324	\$83,742	*	Requires a high school diploma and administrative experience in the legal area.
Attorney	C124	\$45,377	\$60,214	\$78,038		The formal education equivalent of a law degree from an accredited law school; plus one year of experience in law.
Legal Services Specialist	C117	\$32,249	\$44,505	\$59,157		The formal education equivalent of a bachelor's degree in political science, public administration, general business or a related field.
JUDC Paralegal	C117	\$32,249	\$44,505	\$59,157		The formal education equivalent of a bachelor's degree in political science, public administration, general business or a related area.

ASL Communications & Application Support Specialist	C125	\$47,646	\$62,719	\$80,847	2	Bachelor's degree in computer science or related field with 3 years experience OR Associate degree with 5 years experience.
State Systems Administrator	C126	\$50,029	\$65,324	\$83,742		The formal education equivalent of a bachelor's degree in computer science or related field; plus four years of experience in systems administration. OR Completion of technical training in computer science, data processing, or a related field acquired from a vocational, military, or industrial setting; plus four years experience in computer support.

Senior Technology Analyst		C126	\$50,029	\$56,324	\$63,742	The formal education equivalent of a bachelor's degree in information technology, business administration, or related field; plus three years of experience in system analysis, telecommunications, information technology, information security, or other related field.	
Institution Information Technology Coordinator		C125	\$47,646	\$52,719	\$60,847	The formal education of a bachelor's degree in computer science or related field; plus three years of experience in information technology, including one year supervisory experience.	
State Systems Specialist		C124	\$45,377	\$50,214	\$58,039	The formal education equivalent of a bachelor's degree in computer science or related field; plus two years of experience in systems administration. OR Completion of four years of technical training in computer science, data processing, or a related field acquired from a vocational, military, or industrial setting, plus two of years experience in computer support.	

ASL Promotions & Events Manager		C124	\$45,377	\$50,214	\$58,039	1	Bachelor's degree in marketing, advertising, with 3 years experience in event planning, promotions, or a related field.
ADPT Marketing and Promotion Director (Parks & Tourism)		C123	\$43,217	\$57,808	\$75,312	The formal education equivalent of a bachelor's degree in business or related field; plus five years of work experience, including two years of supervisory experience.	
ADPT Development Manager		C122	\$41,159	\$55,490	\$72,670	The formal education equivalent of a bachelor's degree in tourism development, marketing, business administration, public relations, or a related field; plus four years experience in marketing, public relations, tourism, or a related field, including two years in a supervisory capacity.	
Special Events Manager		C115	\$29,251	\$40,367	\$53,657	The formal education equivalent of a bachelor's degree in public relations, business administration, theater arts, or related field; plus three years of experience in special event programming or related area, including one year in a supervisory capacity.	

ASL Accountant		C122	\$41,159	\$55,490	\$72,670	5	Bachelor's degree in accounting or related field with 5 years experience in a related area such as accounting, auditing, banking, or finance.
Accounting Operations Manager		C125	\$47,646	\$52,719	\$60,847	The formal education equivalent of a bachelor's degree in accounting; plus four years of experience in accounting, financial management, fiscal administration, or a related area, including two years in a managerial or supervisory capacity.	
Program Fiscal Manager		C122	\$41,159	\$55,490	\$72,670	The formal education equivalent of a bachelor's degree in public administration, business administration, or a related area; plus three years of experience in program organization and administration, including one year in a supervisory or leadership capacity.	
Financial Analyst II		C121	\$39,199	\$53,264	\$70,108	The formal education equivalent of a bachelor's degree in accounting, finance, business administration, or a related field; plus three years of experience in financial analysis or management.	
Agency Fiscal Manager		C121	\$39,199	\$53,264	\$70,108	The formal education equivalent of a bachelor's degree in finance, business administration, public administration, or related field; plus four years experience in related field, including two years supervisory experience.	
Accounting Coordinator		C121	\$39,199	\$53,264	\$70,108	The formal education equivalent of a bachelor's degree in accounting, plus three years of experience in accounting, financial management, or a related area, including one year in a supervisory capacity.	

ASL Claims Center Manager		C122	\$44,159	\$55,990	\$72,670	3	Bachelor's degree or high school diploma with 7 years relevant experience in business management, banking, or administrative services.
State Title Information							
Fiscal Support Manager		C123	\$43,217	\$54,006	\$75,312		The formal education equivalent of a bachelor's degree in finance, business administration, general business, or related field; plus three years of experience, including one year in a supervisory capacity.
DHE Program Specialist		C122	\$44,159	\$56,490	\$72,570		The formal education equivalent of a bachelor's degree in business administration, public administration, information technology, public administration, accounting, economics, finance, financial management, or related field; plus three years of experience in grants/contracts management or a related field.
Financial Analyst II		C121	\$39,199	\$51,264	\$70,108		The formal education equivalent of a bachelor's degree in accounting, finance, business administration, or a related field; plus three years of experience in financial analysis or management.
DFA Revenue Office District Manager		C121	\$39,199	\$53,284	\$70,108		The formal education equivalent of a high school diploma; plus six years of experience in overseeing or providing state revenue office services, or a related field, including two years in a supervisory capacity.

ASL Draw Manager (part time)		C124	\$39,199	\$53,264	\$70,108	3	Bachelor's degree or high school with 5 - 8 years experience in law enforcement or a substantial position in the security field.
State Title Information							
DHS Behavioral Health Public Safety Director		C123	\$37,632	\$51,124	\$67,626		The formal education equivalent of a high school diploma; plus six years of work experience in public safety enforcement activities, including two years in a supervisory capacity. Must be certified as a law enforcement officer by the Arkansas Law Enforcement Standards Commission in accordance with ACA 12-9-106.
ADC/DCC Captain		C118	\$33,861	\$46,730	\$62,115		The formal education equivalent of a high school diploma; plus four years of experience in correctional security or law enforcement, including three years in a supervisory capacity.
Intelligence Analyst Supervisor		C118	\$33,861	\$46,730	\$62,115		The formal education equivalent of a high school diploma; plus five years of experience in investigative activities of related area, including one year of experience in a leadership capacity. Must be certified as a Law Enforcement Officer in accordance with ACA 12-9-106.
Criminal Insurance Fraud Investigator		C119	\$35,654	\$49,067	\$65,221		The formal education equivalent of a high school diploma; plus five years of experience in law enforcement criminal investigations with supervisory or leadership experience. Must have three years of certified law enforcement experience or its equivalent in national or military law enforcement as approved by the Arkansas Commission on Law Enforcement Standards and Training. Must be able to complete the Arkansas Law Enforcement Certification training within one year of employment as established by ACA 12-9-106.

ASL HR Generalist		C121	\$39,199	\$53,264	\$70,108	1	Bachelor's degree in Human Resources Management, Business Administration, or related concentration with 3 years experience in human resources programs.
State Title Information							
Agency Human Resources Manager		C123	\$43,217	\$57,808	\$75,312		The formal education equivalent of a bachelor's degree in human resources, business administration, public administration, or a related field plus five years of human resources experience, including three years in supervisory capacity.

State Title Information	Personnel Manager	C121	\$39,169	\$53,264	\$70,108	The formal education equivalent of a bachelor's degree in human resources, public administration, or a related field plus four years of human resources experience, including one year in a supervisory or leadership capacity.
	Institution Personnel Services Manager	C118	\$35,861	\$46,730	\$62,115	The formal education equivalent of a bachelor's degree with a major in human resources management, business administration or related field, plus four years of experience in human resources administration, human resources development, or related area, including two years in a supervisory capacity.
	Assistant Personnel Manager	C118	\$33,661	\$46,730	\$62,115	The formal education equivalent of a bachelor's degree in personnel management, public administration, general business, or a related field, plus two years of experience in public administration, human resource management, or a related field.
	Human Resources Analyst	C117	\$32,249	\$44,505	\$59,157	The formal educational equivalent of a bachelor's degree in human resources, public administration, or a related field, plus two years of human resources experience.
	ASL Product Specialist	C121	\$39,199	\$53,264	\$70,108	Bachelor's degree in marketing, advertising, or related field with experience in product management.

State Title Information	ADPT Development Manager	C122	\$41,159	\$55,490	\$72,670	The formal education equivalent of a bachelor's degree in tourism development, marketing, business administration, public relations, or a related field, plus four years experience in marketing, public relations, tourism, or a related field, including two years in a supervisory capacity.
	Development Specialist	C119	\$35,554	\$49,067	\$65,221	The formal education equivalent of a bachelor's degree in public relations, marketing, or related field, plus three years of experience in public relations or related area, including one year in fund raising activities and a supervisory capacity.
	Media Specialist	C116	\$30,713	\$42,366	\$56,940	The formal education equivalent of a bachelor's degree in journalism, public relations, or a related area, plus two years of experience in journalistic activities or a related area.
	ADPT Consultant (Parks & Tourism)	C115	\$29,251	\$40,367	\$53,657	The formal education equivalent of a bachelor's degree in tourism, public relations, marketing, general business, or a related field, plus two years of experience in the travel or tourism industry or a related field.
	ASL Security Specialist	C120	\$37,332	\$51,124	\$67,626	Bachelor's degree or 5 years investigative experience.

State Title Information	ASP/CACD Investigator	C117	\$32,249	\$44,505	\$59,157	The formal education equivalent of a bachelor's degree in social work, sociology, psychology, criminal justice, criminology, plus two years of experience in criminal investigations. Must possess a valid Arkansas driver's license.
	ADC/DOC Internal Affairs Investigator	C116	\$30,713	\$42,366	\$56,940	The formal education equivalent of a bachelor's degree in criminal justice or a related field, plus two years of experience in law enforcement, corrections, or a related field.
	ASP Investigator Specialist	C114	\$27,858	\$38,445	\$51,102	The formal education equivalent of two years of college coursework in business education, general business, or a related field, plus one year of investigation or inspection experience.

ASL Marketing Sales Representatives	C120	\$57,332	\$61,124	\$67,676	20	Valid driver's license required. Must be eligible for bonding.
Museum Store Manager	C115	\$29,251	\$40,387	\$53,657		High school diploma and 3 years experience in sales, customer service, or a related field.
ADC Sales Representative	C114	\$27,858	\$38,445	\$51,102		The formal education equivalent of a bachelor's degree in business, marketing, or related area; plus one year of experience in retail sales, general business, or a related field.
Assistant Lodge Sales Director	C112	\$25,268	\$34,871	\$46,351		The formal education equivalent of a high school diploma; plus two years of experience in event planning, sales or hotel/motel management, or a related field.
State Title Information						

ASL Payroll Specialist	C120	\$37,352	\$51,124	\$67,676	1	
Fiscal Support Manager	C123	\$43,217	\$57,806	\$75,312		Bachelor's degree in accounting, business administration, or finance with 3 years experience in professional level banking, budgeting, accounting, or financial management.
Accounting Coordinator	C121	\$38,189	\$53,264	\$70,108		The formal education equivalent of a bachelor's degree in finance, business administration, general business, or related field; plus three years of experience, including one year in a supervisory capacity.
Payroll Services Coordinator	C119	\$35,554	\$49,067	\$65,221		The formal education equivalent of a bachelor's degree in accounting; plus three years of experience in accounting, financial management, or a related area; including one year in a supervisory capacity.
State Payroll Systems Specialist	C115	\$30,713	\$42,366	\$56,340		The formal education equivalent of a bachelor's degree in business administration, accounting, or a related area; plus two years of experience in payroll processing, payroll accounting, or related areas.
State Title Information						

ASL Promotion & Event Coordinator	C117	\$32,249	\$44,505	\$59,157	2	
ADPT Specialty Operations Manager (Parks & Tourism)	C118	\$33,861	\$46,730	\$62,115		Bachelor's degree in marketing, advertising, sales, event planning, promotions or related field.
Museum Program Specialist	C116	\$30,713	\$42,366	\$56,340		The formal education equivalent of a bachelor's degree in marketing, accounting, or business management or a related field; plus four years of experience in retail and/or financial management in a for-profit organization.
Information						



State Title Information	DHE Communications Coordinator	C123	\$45,217	\$97,805	\$75,312	The formal education equivalent of a bachelor's degree in education, journalism, graphic design, print media, or a related field, plus three years of experience in print journalism or a related field.
	Public Information Coordinator	C120	\$37,932	\$51,124	\$57,626	The formal education equivalent of a bachelor's degree in public relations, journalism, or a related field, plus four years of experience in public relations, journalism or a related field, including one year of supervisory experience.
	Editor	C117	\$32,249	\$44,505	\$58,157	The formal education equivalent of a bachelor's degree in journalism, English, or a related field, plus two years of experience in writing and editing news releases or articles.
	Public Information Specialist	C116	\$30,713	\$42,386	\$56,240	The formal education equivalent of a bachelor's degree with a major in communications, journalism, public relations, or related field, plus one year of experience in public relations or related area.

State Title Information	ASL Administrative Analyst	C115	\$29,251	\$40,367	\$53,657	2	Bachelor's degree in marketing or related field with experience in market research, econometrics, operations research, statistics, or related field.
	Health Administrative Coordinator	C117	\$32,249	\$44,505	\$58,157	The formal education equivalent of a bachelor's degree in public administration, general business, or related field, plus two years of experience in research, program development, or a related field.	
	Administrative Analyst	C115	\$28,251	\$40,367	\$53,657	The formal education equivalent of a bachelor's degree in public administration, general business, or a related field.	

State Title Information	ASL Licensing Specialist	C115	\$28,251	\$40,367	\$53,657	3	High school diploma and 3-5 years administrative work experience.
	Administrative Analyst	C115	\$28,251	\$40,367	\$53,657	The formal education equivalent of a bachelor's degree in public administration, general business, or a related field.	
	Licensing Coordinator	C113	\$20,531	\$36,614	\$48,669	The formal education equivalent of a high school diploma, plus one year of administrative office experience.	

Information	ASL Graphic Specialist	C114	\$27,658	\$38,445	\$51,102	2	Bachelor's degree in graphic design, art, or related field and experience in graphics.
	Production Artist	C117	\$32,249	\$44,505	\$58,157	The formal education equivalent of a bachelor's degree in graphic design, visual arts, or a related field.	

Microsoft Access  
Excel, and Word  
proficiency

State Title	C114	\$27,858	\$38,445	\$51,102		The formal education equivalent of a high school diploma, plus two years of specialized training in commercial art, graphic design, or related field, plus one year of experience in advertising, printing, graphic design, or related field.
Commercial Graphic Artist						
ASL Computer Operator	C113	\$26,531	\$36,614	\$48,669	1	2 years experience as computer operator or degree certificate from a 2 year business or technical school with 1 year experience.
Computer Operator	C114	\$27,858	\$38,445	\$51,102		The formal education equivalent of an associate's degree in computer science, mathematics, or a related field plus one year of experience in computer support. OR Completion of technical training in computer science, data processing, or a related field acquired from a vocational, military or industrial setting, plus one year of experience in computer support.
Network Analyst	C114	\$27,858	\$38,445	\$51,102		The formal education equivalent of an associate's degree in information technology, computer science, systems engineering, or a related area, plus two years of experience in data network operations/design or related area.
ASL Administrative Support Supervisor	C113	\$26,531	\$36,614	\$48,669	1	High School diploma and 4 years administrative experience including supervision of clerical employees. Bachelor's degree may substitute for administrative experience.
Administrative Support Supervisor	C113	\$26,531	\$36,614	\$48,669		The formal education of a high school diploma, plus one year of specialized training in business management, business education, or a related field, plus four years of experience in administrative support including one year in a supervisory or leadership capacity.
Administrative Specialist III	C112	\$25,268	\$34,871	\$46,351		The formal education equivalent of a high school diploma, plus one year of specialized training in business management, business education, or a related field, plus three years of experience in specialized or a related field applicable to work performed.
ASL Administrative Support Specialist	C112	\$25,268	\$34,871	\$46,351	2	High School diploma with 3 years experience OR Associate degree with 3 years clerical, administrative, or business experience OR a Bachelor's degree.
Administration Support Specialist	C112	\$25,268	\$34,871	\$46,351		The formal education equivalent of a high school diploma, plus one year of advanced training in bookkeeping, accounting, or business education, plus three years of experience in bookkeeping, payroll processing, or a related area.
Administrative Specialist III	C112	\$25,268	\$34,871	\$46,351		The formal education equivalent of a high school diploma, plus one year of specialized training in business management, business education, or a related field, plus three years of experience in specialized or a related field applicable to work performed.
ASL Claims Assistant	C112	\$25,268	\$34,871	\$46,351	6	High School diploma and 5 years accounting or bookkeeping experience. Bachelor's degree with accounting courses may substitute for work experience.
Administration Support Specialist	C112	\$25,268	\$34,871	\$46,351		The formal education equivalent of a high school diploma, plus one year of advanced training in bookkeeping, accounting, or business education, plus three years of experience in bookkeeping, payroll processing, or a related area.

Must work various 24-hour shifts

Information

State Title	C112	\$25,268	\$34,871	\$46,361
Administrative Specialist III				
ASL Postal Courier	C110	\$22,919	\$31,142	\$40,991
ADC Mailroom Services Coordinator	C113	\$26,531	\$36,614	\$48,089
Campus Postmaster	C110	\$22,919	\$31,142	\$40,991
Mail Services Coordinator	C107	\$19,798	\$26,271	\$34,046
State Title Information				

The formal education equivalent of a high school diploma; plus one year of specialized training in business management, business education, or a related field; plus three years of experience in specialized or a related field applicable to work performed.

High School diploma and 3 years experience in postal, courier, or delivery operations.

The formal education equivalent of a high school diploma; plus two years of specialized training in office administration or related field; plus two years of experience in mailing operations or related area; including one year in a supervisory capacity.

The formal education equivalent of a high school diploma; plus three years of experience in postal operations; including one year in a supervisory capacity.

The formal education equivalent of an high school diploma; plus six months of experience in mail services operations.

## Arkansas Code

- Arkansas Code
- Title 19. Public Finance.
- Chapter 4. State Accounting and Budgetary Procedures.
- Subchapter 16. Salaries and Payroll Disbursement

### 19-4-1612. Overtime pay.

(a) It is the policy of the State of Arkansas that overtime pay for state employees is the least desirable method of compensation for overtime work.

(b) (1) All state departments, agencies, boards, commissions, and institutions may pay overtime to its employees, under the rules and regulations set out by the Federal Fair Labor Standards Act.

(2) (A) The Chief Fiscal Officer of the State will specify those specific employees or groups of employees other than employees of the Arkansas State Highway and Transportation Department and the Arkansas Lottery Commission eligible to receive overtime compensation, the circumstances under which overtime pay is to be allowed, and such other matters which the Chief Fiscal Officer of the State may deem appropriate and necessary to comply with the federal Fair Labor Standards Act as regards the payment of overtime compensation.

(B) The Director of the Arkansas State Highway and Transportation Department shall make these determinations as to employees of the Arkansas State Highway and Transportation Department.

(C) The Director of the Arkansas Lottery Commission shall make these determinations as to employees of the Arkansas Lottery Commission.

(c) The rules and regulations authorized by this section shall not go into effect until the Chief Fiscal Officer of the State, or the Arkansas State Highway and Transportation Department as to its employees, has sought the advice of the Legislative Council.

(d) In the event that the Federal Fair Labor Standards Act is held, for whatever reason, to be nonapplicable to state employment, then any state department, agency, board, commission, or institution may pay overtime to its employees only if the General Assembly has given authorization by an appropriation.

**History.** Acts 1973, No. 876, § 23; 1976 (Ex. Sess.), No. 1, § 1; 1977, No. 118, § 1; 1985, No. 820, § 1; Acts **2009, No. 605**, § 19; **2009, No. 606**, § 19.

A.S.A. 1947, § 13-349.



## **Department of Finance and Administration Employee Orientation Handbook**

### **About this Handbook:**

This Handbook does not constitute any employment contract or agreement, either expressed or implied, between the Department and its employees. This Handbook is subject to change without notice either wholly or in part.

Discrimination by any officer or employee based upon race, creed, religion, national origin, age, sect, or gender shall constitute grounds for dismissal. When it is determined by any court of law that an employee of the State of Arkansas is guilty of discrimination based on the above, such determination shall be grounds for dismissal from employment.

The Department's ADA Coordinators are:

Mike Munns, ADA Coordinator for all Offices in the Revenue Division, including OCSE.

Tracy Mitchell, ADA Coordinator for all other divisions or offices within the department.

It should be understood that the Department cannot make an accommodation when it is unaware of the need. It is primarily the responsibility of the applicant or employee with a disability to inform the Department that an accommodation is needed to participate in the application process, to perform essential job functions, or to receive equal benefits and privileges of employment.

If you feel you need a reasonable accommodation, please submit a written request to your supervisor. Together the supervisor and the ADA Coordinator will review the request to determine the most appropriate action. Our goal is to provide reasonable accommodations that reduce barriers to employment related to an applicant's or employee's disability.

### **DFA UNIFORM GRIEVANCE AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURE**

#### **Purpose**

This grievance procedure is established to provide employees with a prompt review, impartial consideration, and equitable disposition of their grievances. Any employee who presents a grievance or complaint in good faith and in a reasonable manner will be free from restraint, interference, discrimination, or reprisal.

This procedure is intended to encourage employees to discuss problems with their supervisor, thereby providing a basis to talk over matters of mutual interest, to explain, to reach agreement, to make adjustments if necessary, and to foster better understanding between employees and supervisors. Such discussions will lead to better employee/supervisor understanding of policies, procedures, and practices.

The Alternative Dispute Resolution (ADR) or Mediation component of this procedure is provided to promote collaborative problem solving. The mediation process may be utilized for resolution of any work-related disputes, which include issues that may not necessarily be defined as grievance issues.

#### **Policy**

It is the policy of this agency that all employees are given the opportunity to resolve complaints or grievances which they believe adversely affect their employment or working conditions. This opportunity is provided through established steps and procedures to ensure fair resolution within a reasonable time frame.

It is also our policy that reasonable efforts be made to settle complaints or grievances as quickly as possible. Direct contact between supervisor and employee has always been a policy of the agency.

These Grievance and ADR Procedures are not intended, nor will they be allowed, to become a barrier to the supervisor/employee relationship.

Employees should submit only grievances or complaints that meet the following criteria:

1. made in good faith
2. expressed in reasonable terms
3. include causes for the grievance

4. include corrective action desired, and
5. include sufficient information upon which to base decisions.

Access to this procedure is at the employee's option and does not create any expectation of continued employment, but provides an avenue of review and resolution of internal situations.

## Definitions

1. **Employee:** An individual who is a non-probationary, full-time employee of the agency who occupies a regular position and who works a minimum of 1,000 hours per year. This policy will not apply to employees who hold administrative posts, appointed positions, and

employees who are on initial new hire probationary status. Part-time, temporary, intermittent, and extra help employees do not have access to this procedure.

In DFA, the employees occupying the following positions do not have access to these procedures:

DFA Director	DFA Deputy Director
DFA Revenue Assistant Commissioner	ABC Enforcement Director
Racing Commission Manager	ABC Administration Director
DFA Administrators	Criminal Detention Facilities Review Coordinator
Managers	Attorney Supervisors
Attorney Specialists	Attorneys
Anyone occupying an unclassified position	

2. **Grievance:** A complaint by an employee regarding an aspect of his or her employment, including, but not limited to:

annual leave	sick leave	compensatory time
dismissal	suspension	promotion
demotion	disciplinary actions	discrimination

or any other work-related problem except compensation and conditions which are beyond the control of agency management or are mandated by law

Complaints about performance evaluations may be appealed utilizing the separate performance evaluation appeals process. Complaints concerning performance evaluation will not be reviewed by the State Grievance Review Committee, the State Employee Grievance Appeal Panel, or through ADR.

Reduction-in-force (RIF) appeals will be processed through a separate appeals procedure. The ADR mediator, the State Grievance Review Committee and/or the State Employee Grievance Appeal Panel will not hear complaints concerning reduction-in-force.

Non-selection for promotion or lateral transfer will not be heard by the State Grievance Review Committee or the State Employee Grievance Appeal Panel, unless discrimination is the basis of the complaint. Non-selection may be heard, internally, through mediation or the grievance procedure.

3. **Alternative Dispute Resolution (ADR) or Mediation:** a process that allows parties to constructively manage conflicts through collaborative problem solving and joint decision making, through utilization of a neutral third party (mediator).

## Procedure

All grievances, complaints, steps in the procedure, and any appeal steps will be processed through the agency grievance officer and should be handled in accordance with the following procedures:

**NOTE:** Participation in any portion of this procedure is voluntary. This includes both the ADR component and the grievance procedure component. If ADR is the process selected by the employee to attempt resolution of the dispute, the employee will not have access to the grievance procedure. If the employee elects to utilize the grievance procedure, the employee will not have access to mediation (ADR). Regardless of the issue, the employee

will not have access to the State Grievance Review Committee or the State Employee Grievance Appeal Panel if ADR is the chosen resolution process.

The grievance and/or ADR may be terminated at any stage if an agreement between parties is reached. The grievance procedure may be terminated at any step by the grievant. The ADR process may be terminated at any point by the grievant, supervisor, and/or mediator if the sessions are not productive.

The employee and agency may be represented by someone of his or her own choosing at each step of this procedure except during informal discussions prior to initiating the formal grievance procedure or ADR process.

The internal grievance procedure will be completed within 25 working days, and the ADR procedure will be completed within ten working days after the employee files a written grievance, unless an extension is agreed to by all parties involved. The total number of days, including extensions and/or appeals to the agency director, the State Grievance Review Committee, or the State Employee Grievance Appeal Panel, is not to exceed 35 working days.

It is recognized that supervisors and employees have frequent discussions of work-related problems or disagreements. These candid conversations are generally healthy and helpful to both participants and this procedure is not intended to inhibit these exchanges. Before filing a written grievance or using the ADR process, an employee is encouraged to discuss the problem with his or her immediate supervisor to attempt to reach a satisfactory solution. (If the complaint involves sexual harassment, the employee will not be required to meet with the supervisor alone, if the supervisor is the accused.) Most problems can be cleared up or resolved at this point. Collaborative problem-solving is encouraged.

If the problem is not resolved by an informal meeting between the employee and the supervisor, the employee may contact the department's grievance officer who will assist him or her in starting the ADR process or the formal grievance procedure at the appropriate step. If, for whatever reason, the grievance officer cannot process the grievance, a substitute grievance officer will be designated.

The employee and the appropriate level of management may have any persons having knowledge of matters relevant to the grievance present at any and all steps of the grievance or ADR procedure. Both parties may also submit or request the submission of relevant written documents at any and all steps.

Under special circumstances, the grievance officer has the authority to modify, waive, or otherwise change the Uniform Grievance/ADR Procedure to fulfill the intent of the procedures, provided such modification, waiver, or change is agreed to by the Department Director and the employee. This

will include combining grievances. The grievance officer will document the justification for and the details of any variation from the procedure.

The Department Director may intervene at any step in the grievance or ADR procedure if he/she decides that direct action is necessary to resolve the complaint. The Director will make every effort to resolve all matters involving allegations of unlawful discrimination, termination, suspension without pay, involuntary demotion, and/or failure to award compensatory time.

Should any person within the Department intentionally interfere with, hinder, block, or otherwise impede the processing of a grievance, that employee will be subject to disciplinary action. Also, if any employee or supervisor willfully fails to meet any of the deadlines set forth within this

procedure in an attempt to delay the resolution or disposition of a grievance, the employee or supervisor will be deemed to have forfeited any participation which he/she might otherwise have under this procedure. Additionally, if an employee is determined to have filed frivolous grievances or complaints, the employee will be subject to disciplinary action.

### **Determination of Grievable Matters**

If the grievance officer and the employee cannot agree about whether the complaint is grievable within the scope of these procedures, Executive Order 86-01, and/or Executive Order 93-01, the grievance officer will request a determination from the State Grievance Review Committee (SGRC). To request this determination, the grievance officer will file information concerning the nature of the complaint with the Administrator of the Office of Personnel Management. The employee and the agency supervisor will submit position statements concerning the nature of the complaint. These statements will be filed with and attached to the grievance officer's request for the determination. Determination matters include whether the matter is grievable, whether the employee has access to the procedure, and/or whether the matter is grievable to the State Employee Grievance Appeal Panel (SEGAP), State Grievance Review Committee (SGRC), or is eligible for ADR.

The Administrator of the Office of Personnel Management (OPM) will promptly report to the grievance officer and/or employee (where applicable) the Committee's decision concerning the determination. Neither the Administrator of OPM nor any member of the SGRC will make any finding at this stage regarding the complaint. Their review will be limited to the determination of whether the complaint is a grievable matter, whether the employee has access to the process, and/or to which process the complaint should be addressed.

### **Special Notations**

Meetings and hearings at all steps of the grievance procedure may be transcribed and will become part of the case file record if appealed to the agency director, SGRC, or SEGAP. Meetings and hearings of the ADR process will not be recorded.

Grievances involving allegations of unlawful discrimination, termination; suspension without pay, involuntary demotion, and/or failure to award compensatory time will begin at Step 3 of this procedure unless the employee chooses to utilize the ADR process to attempt resolution.

At the conclusion of each step of the procedure, including ADR, written notification of decisions, agreements, or recommendations will be provided to all parties involved, including the employee's immediate supervisor (when appropriate). If ADR is utilized, the only documentation will be a written agreement or a statement which reports that an agreement was not reached.

The employee should attempt to resolve any work-related problems with the supervisor in an informal meeting prior to initiating the ADR process or the grievance procedure.

*To initiate the grievance or ADR component of this procedure, the employee must submit the complaint or grievance in writing to the agency grievance officer within five working days of the occurrence of the incident.*

### **Step 1**

The grievance officer will contact the appropriate supervisor within three working days of the filing of a grievance and arrange for a meeting within three working days between the employee and the supervisor with the grievance officer present. The grievance officer will explain the ADR process and grievance procedure to both parties. The employee will have two working days to select the process (ADR/Mediation—Option 1 or Grievance—Option 2) to be utilized.

**Option 1:** (For the purposes of this policy, the terms ADR and Mediation will be used interchangeably.) If ADR is chosen, the grievance officer will contact the Office of Personnel Management to secure a mediator. The mediator will contact the employee and appropriate level of management within two working days of notification to schedule the initial mediation session.

If the ADR process is successful, the mediator will formalize the agreement in writing. The agreement will be signed by the grievant, agency management, representatives (if present), and the mediator. The agreement will be filed with the grievance officer within five working days of the conclusion of the ADR session.

If a resolution is not reached through ADR within ten working days, the mediator will prepare a statement to that effect. The statement, specifying that a resolution was not achieved, will be signed by the grievant, management, and the mediator. At this point, the employee's access to internal resolution procedures is exhausted. The statement will be filed with the grievance officer within two working days of the conclusion of the ADR process.

**Option 2:** If the grievance procedure option is selected, the grievance officer will contact the supervisor and arrange a meeting between the supervisor and employee, with the grievance officer present, within three working days. The supervisor will submit his/her decision in writing to the employee and the grievance officer within one working day of the conclusion of this meeting. If the employee wishes to continue the grievance, written notice will be provided to the grievance officer within two working days of receipt of the supervisor's written decision. The process will continue to Step 2.

### **Step 2**

The employee, if not satisfied with the results of Step 1, may, in writing, request a review by the next appropriate level of management. The request will be submitted to the grievance officer within two working days of receipt of the decision at Step 1. The grievance officer will arrange and attend a hearing between the employee and management (referred to as the deciding official). The deciding official may require the employee to submit a written statement of his/her disagreement with the decision in Step 1 prior to the hearing. The deciding official may take testimony from relevant witnesses and the employee's supervisor. This hearing will be recorded. The deciding official will submit his/her decision in writing to the employee, the grievance officer, and the supervisor within three working days following the conclusion of the hearing.

### **Step 3**

If not satisfied with the results of Step 2, the employee may, in writing, request a hearing by the Department Director (or designee). The request will be submitted to the grievance officer within two working days of the receipt of the decision at Step 2. The grievance officer will submit the matter to the Department Director. The hearing must be recorded and may be transcribed, and will become a part of the case file (if appealed).

The grievance officer will, within three working days, arrange and attend a meeting between the employee and the Department Director or his/her authorized representative (e.g.: special hearing officer, Deputy Director, etc.). Subordinate managers will attend at the request of the hearing officer. The hearing officer may take testimony and accept exhibits. The hearing will be recorded. Within three working days of the conclusion of the hearing, the Department Director will submit his/her decision in writing to all parties involved, including the immediate supervisor (if appropriate).

### **Step 4**

If the employee is not satisfied with the decision of the Department Director (or designee), he or she may, within five working days of receipt of the Director's written decision, appeal the decision to SGRC or SEGAP (as appropriate).

Within five working days from the date of receipt of the grievant's written appeal, the Administrator of the Office of Personnel Management will set a hearing date with SGRC (Committee) or SEGAP (Panel). The Committee or Panel will conduct whatever review of the grievance it deems necessary. The Panel will hear unresolved grievances concerning allegations of unlawful discrimination, termination, suspension without pay, involuntary demotion, and/or failure to award compensatory time. The Committee will hear all other unresolved grievances.

The Committee will conduct its review and make recommendations to the Director and the appealing party (and designated representatives) within ten working days of the appeal.

The Panel will conduct a hearing and make its decision within five working days following the conclusion of the hearing. The written decision will be forwarded to the Director, appealing party, representatives of either or both parties, and the employee's immediate supervisor within ten working days following the conclusion of the hearing. The decision will be binding on all parties.

### **Step 5**

If the review body is the Committee, the director will review the Committee's recommendations and will submit, within three working days of receipt of the written SGRC recommendation, his or her decision in writing to all parties, representatives, and supervisors involved. The Committee will be copied on this decision. The decision of the Director will be final and binding on all concerned.

If the review body is the Panel, the Director will review the Panel's decision and effect implementation of the decision. If the Director does not agree with the Panel's decision, he or she may, within ten working days of receipt of the Panel's written decision, provide the Chief Fiscal Office of the State and the aggrieved employee with written justification of the agency's action, and request a formal review of the Panel's decision by the Chief Fiscal Officer. The employee may also submit comments regarding the agency director's justification to the Chief Fiscal Officer. These responses to an agency appeal will be submitted to the Chief Fiscal Officer within ten calendar days of the date of the agency appeal. (Appeals to the Chief Fiscal Officer should be processed by the agency grievance officer or authorized representative.) Within fifteen days of receipt of the agency director's justification and written request for review, the Chief Fiscal Officer will issue a

final administrative order affirming, reversing, or modifying the Panel's decision. This order will be binding on the agency.

**NOTE:** Since the Chief Fiscal Officer of the State is also the Department Director of DFA, Step 5 may not be available to employees of the Department of Finance and Administration. However, the DFA Director may designate the DFA Deputy Director or DFA Revenue Assistant Commissioner to hear the grievance at Step 3. The Director, as Chief Fiscal Officer, would then be able to review the appeal at Step 5.

This, however, does not prohibit employees from using remedies outside these procedures. Each employee retains the right to file a complaint with the Equal Employment Opportunity Commission or pursue other legal remedies.

### **Documentation**

It will be the responsibility of the grievance officer to maintain the official file of the grievance or complaint, the procedures followed, and the ultimate disposition, along with copies of all documentary evidence. In addition, when an employee begins the formal grievance procedures or ADR at any step, it will be the responsibility of the grievance officer to immediately document the name of the employee and of his/her immediate supervisor, the employing unit, the name of the grievance officer, a statement of the nature of the grievance, the chosen method of resolution, and the date formal proceedings began. All documentation relating to an employee grievance will be maintained in the department's Human Resources Office, separate from the employee's personnel file. No information relating to the grievance will become a part of any employee's permanent personnel record. However, these records will be maintained in hard copy for five years, and maintained permanently in a manner that complies with applicable state and federal laws regarding retention of such records.

### **Veterans Preference Law**

In accordance with ACA 21-3-302, DFA abides by the following:

- (a) This section shall be entitled the "Veterans Preference Law".
- (b) For purposes of this section, "veteran" means:
  - (1) A person honorably discharged from a tour of active duty, other than active duty for training only, with the armed forces of the United States; or
  - (2) Any person who has served honorably in the National Guard or reserve forces of the United States for a period of at least six (6) years, whether the person has retired or been discharged or not.
- (c) In every department or agency of state government or institution of higher education with employee positions subject to the Uniform Classification and Compensation Act, § 21-5-201 et seq., a veteran who voluntarily submits official proof of his or her status as a veteran, disabled veteran, or a surviving spouse of a deceased veteran who remains unmarried at the time the preference is sought and who is a citizen and resident of this state shall be entitled to employment preference in a position over other applicants after meeting substantially equal qualifications.
- (d) (1) If there is an examination, evaluation, or similar instrument given for the purpose of establishing an interview or employment list for such public sector jobs and a person entitled to preference attains a passing grade thereon, he or she shall have five (5) points



TO: Commissioners, Arkansas Lottery Commission

FROM: Ernie Passailaigue

DATE: August 25, 2010

SUBJECT: OPM's Policy and Position Review

The Office of Personnel Management (OPM) recently completed its review of the Arkansas Lottery Commission's ("ALC") human resource management policies, including the compensation and classification of ALC positions. We have expressed our appreciation to OPM for reviewing our policy information.

Management concurs with OPM's general comment that ALC policies are consistent with most state government policies. Because the ALC is a very unique agency with a unique mission, the General Assembly crafted our statutory authority to be modeled after other successful lotteries throughout the country, and not after another state agency. Toward this end, the statutory authority granted to the ALC by the General Assembly is clearly broader in scope than that of many agencies in several ways. This distinct difference is directly acknowledged in OPM's response. As an important example, OPM cites the fact that "the Arkansas Lottery Commission compensation processes are strictly at the discretion of the director."

ALC management further agrees that OPM's interpretation of the statute relating to the duties of the Director is correct. This interpretation recognizes the salient distinction between ALC and other state agencies. ***No other agency has been created in Arkansas for the sole purpose of selling a product and competing in a retail environment.*** ALC sells games twenty-four (24) hours a day, three hundred sixty-five (365) days a year. The Director's powers include directing personnel as necessary, and performing other duties generally associated with a director of a commission of an entrepreneurial nature. §23-115-302.

Compensatory time, which is also utilized by other state agencies, but not addressed in the OPM response, is commonly used in the lottery industry because of staffing limitations. However, we note that OPM's suggestions for grievance procedures could negate at will employment established by the General Assembly in §23-115-302(4). This section provides the director shall "appoint, select, and employ officers, agents, and employees, . . . and fix their compensation and pay their expenses as authorized by Arkansas law . . . ." Statutory provisions of this type

distinguish ALC from other state entities, and reflect the demanding and fluid needs of an entrepreneurial enterprise, an enterprise that is charged with generating tens of millions of dollars for scholarships. ***The General Assembly carefully crafted and enacted statutes that successfully governed the launch and continued successful operations of the lottery.*** Thousands of students to date have benefited from the that Act.

In the area of human resource management, the Arkansas Scholarship Lottery Act ("Act") (§23-115-305) specifically requires that ALC comply with the *Regular Salaries Procedures and Restrictions Act* and exempts ALC from most but not all provisions of the *Uniform Classification and Compensation Act*. ALC is in compliance with these regulations.

As to the review of ALC salaries and position classifications, OPM did not provide any comment.

Attachments (4)

cc: David Barden  
Ernestine Middleton

**OPM ISSUE: Communication of Employee Concerns**

*Most state agencies have a defined process for the resolution of grievances. The Lottery Commission policy does not reflect this process nor does it define which employee classifications could utilize the grievance process. Attached you will find the DFA procedure on pages 25-31. This is a typical process for most state positions and allows an administrative alternative to a judicial hearing.*

**RESPONSE:**

ALC is reviewing the grievance appeal processes used by similarly situated state agencies as OPM recommended. Recommendations will be made to the Personnel Committee for further consideration after staff provides further study and review.

Currently, the *Communication of Employee Concerns* policy is ALC's chain-of-command grievance procedure. ALC does not limit who has access to its grievance process as stated in other state agencies' policies. All levels of ALC employees may voice their complaints, concerns and have their grievances resolved through our policy.

**OPM ISSUE: Hours of Work**

*Normal business hours for State Employees are from 8:00 to 4:30 inclusive of a 30 minute lunch. ALC has established 8:30 as the start time for all ALC employees. There is no mention of flex time or alternate working hours, which are common practices within State Agencies. Also, it is not State Policy to add the 2 fifteen minute breaks to the lunch break, which is a practice frowned upon by the US Dept. of Labor.*

**RESPONSE:**

ALC is operational 24 hours/365 days a year with some employees working various shifts including being on-call at all hours. The normal business hours of operation for the majority of employees are 8:00 a.m. to 4:30 p.m., Monday through Friday. This recent change was initiated to improve business transactions with other state agencies.

The use of break periods is a discretionary policy, but is beneficial to our business operation and to our employees' morale and job satisfaction. ALC employees receive thirty (30) minutes for lunch and two (2) fifteen (15) minute breaks which *may* be combined with the lunch period.

In reference to flex time or alternate working hours such programs may be implemented at a later time and ALC does provide flexibility in hardship cases.

**OPM ISSUE: Employment of Relatives**

*Arkansas Code 25-16-003 specifically addresses laws governing married state employees. However, the ALC policy goes much further by addressing employees who live together in a sexual relationship. It appears that the Director has total discretion on addressing the situation which can be based on the employee's job performance. This differs from the policies of most state agencies. If the Arkansas Lottery Commission is determined to have such a policy, it would appear that more definitive guidelines should be established.*

**RESPONSE:**

ALC will recommend to the Personnel Committee that ALC use Section 25-16-003 to govern married state employee issues and rescind the current policy.

The following is the Arkansas Code on married state employees:

**25-16-1003 Married state agency employees**

(a) If as a result of a marriage that occurs after August 12, 2005, employees of a state agency are in violation of the prohibition established by § 25-16-1002, the violation shall be resolved by:

(1) Transferring one (1) of the employees to another position within the state agency;

(2) Transferring one (1) of the employees to another state agency; or

(3) The resignation of one (1) of the employees.

(b) (1) The public official of the state agency shall provide written notice to the employees of each of the alternatives under subsection (a) of this section available to eliminate the violation.

(2) The employees shall be given the opportunity to select among the available alternatives.

(3) If the employees are unable to agree upon an alternative within sixty (60) days of the notice required under subdivision (b)(1) of this section, then the public official shall take action to eliminate the violation.

**History.** Acts 2005, No. 2262, § 1.

**OPM ISSUE: Employee Conduct:**

*The ALC policies have a very long and sometimes vague list of employee conduct that could result in disciplinary action up to and including termination. Most state agencies have progressive discipline policies that set out guidelines for handling such infractions. Generally, employees will have received verbal or written warning prior to termination acts. This policy would appear to leave itself open to interpretation and misapplication. As written, this policy leaves all decisions at the discretion of the director with no systemic approach to discipline.*

**RESPONSE:**

The ALC was created by the General Assembly following a business model that was carefully crafted after other successful state lotteries and not another state government entity. Most human resource experts acknowledge that progressive discipline programs inhibit true at will employment as provided for in ALC's statute.

There is no prohibition in the *Employee Manual* which inhibits management from using verbal and written warnings prior to termination. The terminology "*disciplinary action up to and including termination*" specifically implies that there are other remedies before termination.

**OPM ISSUE: Compensatory Time (FLSA)**

*The awarding of compensatory time to exempt employees directly deviates from the practice of state government. It is generally assumed that if an employee is exempt, then their salary compensates them for extra hours of work that may be required of those employees. I do have a concern that awarding compensatory time to these employees could negate their exempt status thus, creating a liability for the Arkansas Lottery Commission.*

ALC concurs with OPM that ALC has the authority and discretion to implement the method for handling overtime as best suits our business operation pursuant to §19-4-1612(2) (C) of the Arkansas Code. This statutory provision provides that the ALC Director may determine the method of compensation for overtime worked. Other state agencies that are not governed by DFA statutes also use compensatory time.

ALC does not normally grant compensatory time to exempt employees, except for exempt employees that were involved in the start-up of the Lottery who maintained a verifiable record of their time. The program is *temporary* and limited to time earned from the date of hire to November 30, 2009. Compensatory time must be used by December 31, 2011.

This program is compatible with the *Uniform Leave and Attendance* policy and allowable by state and federal regulations. Leave must be approved by the direct supervisor and lapses upon separation of the employee without pay.

Furthermore, ALC's exempt employees' status is not jeopardized nor does it create a liability for the Arkansas Lottery Commission as evidenced from DOL regulations which are presented in the research section.

ALC research<sup>1</sup> provided the following information from a public agency asking if it could provide compensatory time to exempt employees without negating their exempt status. The information is summarized below and is further supported by the federal and state applicable codes:

**19-4-1612 Overtime pay**

(a) It is the policy of the State of Arkansas that overtime pay for state employees is the least desirable method of compensation for overtime work.

(b)(1) All state departments, agencies, boards, commissions, and institutions may pay overtime to its employees, under the rules and regulations set out by the Federal Fair Labor Standards Act.

(2)(A) The Chief Fiscal Officer of the State will specify those specific employees or groups of employees other than employees of the Arkansas State Highway and Transportation Department and the Arkansas Lottery Commission eligible to receive overtime compensation, the circumstances under which overtime pay is to be allowed, and such other matters which the Chief Fiscal Officer of the State may deem appropriate and necessary to comply with the federal Fair Labor Standards Act as regards the payment of overtime compensation.

(B) The Director of the Arkansas State Highway and Transportation Department shall make these determinations as to employees of the Arkansas State Highway and Transportation Department.

(C) The Director of the Arkansas Lottery Commission shall make these determinations as to employees of the Arkansas Lottery Commission.

**CODE OF FEDERAL REGULATIONS – TITLE 29 CFR 541.604**

**TITLE 29 - LABOR**

**SUBTITLE B - REGULATIONS RELATING TO LABOR**

**CHAPTER V - WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR**

**SUBCHAPTER A - REGULATIONS**

**PART 541 - DEFINING AND DELIMITING THE EXEMPTIONS FOR EXECUTIVE,**

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<sup>1</sup> Stephen P. Postalakis, Blaugrund, Herbert, & Martin, Inc. "Compensatory Time for Overtime Exempt Employees", 2008 Spring Conference, May 23, 2008; and the Code of Federal Regulations – Title 29 CFR 541.604

## ADMINISTRATIVE, PROFESSIONAL, COMPUTER AND OUTSIDE SALES EMPLOYEES

### subpart g - SALARY REQUIREMENTS

#### 541.604 - Minimum guarantee plus extras.

(a) An employer may provide an exempt employee with additional compensation without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly-required amount paid on a salary basis.

Similarly, the exemption is not lost if an exempt employee who is guaranteed at least \$455 each week paid on a salary basis also receives additional compensation based on hours worked for work beyond the normal workweek. Such additional compensation may be paid on any basis (e.g., flat sum, bonus payment, straight-time hourly amount, time and one-half or any other basis), and may include paid time off.

*The FLSA simply permits an employer to provide compensatory time off as merely a substitute for overtime in the form of monetary overtime compensation, at a rate of not less than one and one-half hours of compensatory time for each hour of overtime worked. Of course, exempt employees do not earn overtime. Are they able to receive any benefit for working extra hours? The answer is yes.*

*The regulation governing the salary basis for exempt employees specifically allows for additional compensation beyond the employee's salary. See 29 C.F.R. §541.604(a) (former 29 C.F.R. §541.118(b)). Further, the Department of Labor ("DOL") has specifically stated that "exempt employees may receive additional compensation in addition to a guaranteed salary without defeating the salary basis in accord with §541.118(b)." Commentary to former 29 C.F.R. §541.5(d) (August 19, 1992).*

*Thus, an employer may offer its employees compensatory time that is not covered by the FLSA. According to the regulations promulgated under the FLSA, compensatory time that is earned and accrued by an employee for employment in excess of a non-FLSA requirement is considered "other" compensatory time. 29 C.F.R. §553.28. Non-FLSA compensatory time is overtime not required by the FLSA. Thus, for exempt employees, who are not entitled to overtime, this type of "compensatory time" can be beneficial.*

*The FLSA does not govern "other" compensatory time. That is to say, the FLSA places no parameters or restrictions on the award of non-FLSA compensatory time. Therefore, unlike compensatory time covered by the FLSA, such compensatory time need not be earned at one and one-half the employee's regular rate of pay. Moreover, the employee is not entitled to a guaranteed payment of "other" compensatory time.*

*Although both 29 U.S.C. §207(o)(4) and 29 C.F.R. §553.27(b) require an employee to be paid for unused compensatory time upon termination of employment, that requirement is not imposed upon non-FLSA compensatory time. 29 C.F.R. §553.28(e) specifically states: The requirements of section 7(o) of the FLSA, including the limitations on accrued compensatory time, do not apply to "other" compensatory time as described above.*

*This provision means that, because non-FLSA compensatory time is not covered by the*

*FLSA, it can be provided to employees in any manner determined by the employer. Most importantly, there is no requirement that such "other" compensatory time be cashed out to the employee upon his termination of employment as required for compensatory time governed by the FLSA.*

#### **CONCLUSION**

*The FLSA permits an employer to grant comp time to an exempt employee without jeopardizing the exempt employee's exemption. Although the FLSA authorizes such additional compensation in the form of comp time, the provisions of the FLSA do not actually govern such comp time. Thus, "non-FLSA comp time" can be handled differently than comp time for hourly employees covered by the FLSA.*

#### **OPM ISSUE: Employee Compensation**

*The ALC has broad discretion in the compensation area where state agencies have a very defined process for determination of the starting rate of an employee as well as movement through the pay grade. This allows for consistent salary administration.*

*The ALC is not utilizing the career level of the career service pay plan. This would mean that employees who have over fifteen years of service at various state agencies are not allowed to maintain their previous salary level. Also it would be preferable for ALC to establish a definitive career service date.*

#### **RESPONSE:**

*ALC has established a definitive career service date and the *Employee Manual* includes the career service pay level to the career pay, including the revised pay grades.*

#### **OPM ISSUE: Merit Pay**

*This section refers to the career level of the pay plan although this level is not referenced in the compensation section.*

#### **RESPONSE:**

*ALC uses the career service pay range. This provision was inadvertently deleted from the *Employee Manual's* pay ranges for the career classes.*